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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the combined eighth and ninth periodic reports of Portugal

Addendum

Information provided by Portugal in follow-up to the concluding observations*

[Date received: 6 November 2017]

Note: The present document is being circulated in English, French and Spanish only.

* The present document is being issued without formal editing.

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1. With reference to the implementation of the recommendations contained in paragraphs 23 (c), 25 (b) and 37 of the concluding observations on the combined eighth and ninth periodic reports of Portugal (CEDAW/C/PRT/CO/8-9), Portuguese authorities have the honour to provide the following information.

Establishment of a mechanism to ensure effective cooperation and coordination between family and criminal courts in order to ensure that women have immediate recourse to protection orders and injunctions against abusive partners, without the need to engage in criminal proceedings (para. 23 (c))

2. During the period under reference, Portuguese authorities have sought to improve the coordination between family and criminal courts in cases of domestic violence and avoid contacts between victims and offenders with the aim to improve the protection of children and victims.

3. Law no. 24/2017 of May 24 has recently amended Law no. 112/2009 of 16 September (which establishes the legal regime applicable to the prevention of domestic violence, protection and assistance of its victims), the Civil Code, the Civil Child Protection Procedure, and the Criminal Procedure.

4. According to this law, the Public Prosecution Office must be immediately informed when barring orders, such as the restriction of contacts between the parents, are applied, as to establish, as a matter of urgency, the regulation or modification of the exercise of parental responsibilities.

5. Pursuant to this law:

(a) Where a coercive measure is issued or an accessory penalty of prohibition of contact between parents applied or if there is a serious risk to the rights and safety of the victim of domestic violence or other forms of violence in a domestic context such as child ill-treatment or sexual abuse:

- The common exercise of parental responsibilities may be deemed contrary to the interests of the child in cases where:
- Recourse to the specialized technical hearing and mediation between the parties is not allowed;
- The Public Prosecutor's Office shall request the regulation or alteration of the regulation of the exercise of parental responsibilities, within a maximum period of 48 hours after becoming aware of the above situations.

(b) Coercive measures that entail restriction of contact between parents are immediately communicated to the representative of the Public Prosecution Service with a view to initiating an urgent procedure for the regulation or alteration of the regulation of parental responsibilities.

Establishment of crisis centres and emergency services for victims of rape and sensitization of hospital staff and the police on the assistance required in such cases as well as establishment of standard protocols dealing with victims of rape

6. In 2016, a protocol was signed between the Ministry of Justice, the Deputy Minister, responsible for the Gender Equality area, and the Association of Women against Violence (AMCV) in order to establish a pilot response of a specialized nature for care, psychosocial support and individual psychological support to women and girls victims of sexual violence in the city of Lisbon. The purpose is to develop a pilot and experimental specialized office for survivors of sexual violence,

providing for psychosocial and psychological support, guaranteeing cooperation in terms of measures to prevent the risk of revictimization and secondary victimization, and implement measures to raise awareness of victims of sexual violence. This project was created under the Active Citizenship Programme (*Cidadania Ativa Programme*[1]), managed by the Calouste Gulbenkian Foundation with the co-financing of the Financial Mechanism of the European Economic Area (EEAGrants), with the support of Norway, Iceland and Liechtenstein. This Project includes two guides on sexual violence for professionals and victims,[2] to be disseminated, which were prepared in partnership with the Directorate General of Health and the Legal Medicine National Institute (and Forensic Sciences).

7. In addition, the Ministry of Health, through the Directorate-General of Health (DGS), established, in 2013, the Health Action on Gender, Violence and Life Cycle (ASGVCV), through Order no. 6378, of May 16, which also encompasses sexual violence. In this context, a national network of Teams for the Prevention of Violence in Adults (EPVA) was created, with the following main functions:

- Contribute to the information provided to the population and make the professionals aware of the different services for gender equality and violence prevention throughout the life cycle;
- Disseminate legal, normative and technical information on the subject;
- Increase the training and preparation of professionals in the field;
- Collect and organize information on the situations of violence followed-up in the clusters of primary health care and Hospitals;
- Provide consultancy support to health professionals and teams with regard to the signalling, follow-up or referral of cases;
- Manage the clinical situations that can be followed at the level of primary health care or hospitals;
- Encourage the establishment of intra-institutional and intersectoral cooperation mechanisms in the field of interpersonal violence;
- Establish collaboration with other community projects and resources;
- Mobilize the internal resources network and streamlining the social network;
- Ensure functional articulation, in a network, with other health teams involved in this field.

8. In the National Health Service (NHS), the Teams for the Prevention of Violence in Adults (EPVA) implement the recommendations contained in Articles 61 and 62 of Law 112/2009, of September 16, which establishes the legal regime applicable to the prevention of domestic violence, protection and the assistance of its victims.

9. The ASGVCV published a handbook for health professionals in 2014 titled "Interpersonal Violence — Approach, Diagnosis and Intervention in Health Services", which includes a set of guidelines and protocols for action in situations of violence, particularly in the area of sexual violence.

[1] https://gulbenkian.pt/en/initiatives/cidadania-ativa-programme/.

[2] http://www.saudereprodutiva.dgs.pt/ficheiros-de-upload-diversos/violencia-sexual-guia-de-bolso-para-profissionais-pdf.aspx and http://www.saudereprodutiva.dgs.pt/publicacoes/diversos/violencia-sexual-guia-de-bolso-para-sobreviventesvitimas.aspx.

10. With regards to sexual violence perpetrated against children, the health sector has also been formally and structurally organized at the national level since 2009 through the Network of Support Center for Children and Youth at Risk and the Hospital Support Center for Children and Youth at Risk created by the Health Action for Children and Youth at Risk — Order No. 31292, of December 5, 2008. In this context, guidance documents were published for health professionals in the area of ill-treatment of children and young people and specifically on sexual violence: "Maltreatment in Children and Young People: A Practical Guide to Approach, Diagnosis and Intervention," published in February 2011 by the General-Directorate of Health.

11. Within the framework of the above mentioned health actions, several training actions and technical seminars on the subject of violence were performed at the 5 Regional Health Administrations.

12. In addition, the Directorate-General for Health participated in several initiatives to raise awareness among professionals, with different partners in the community, in particular on the drafting of other manuals in the area of sexual violence, such as the Pocket Guide on Sexual Violence for Survivors/Victims and the Handbook on Sexual Violence for Professionals.

13. Also in this area, several national plans and programs related to this matter are being implemented, such as:

- The 5th National Plan for Gender Equality, Citizenship and Non-Discrimination 2014–2017;
- The 5th National Plan for the Prevention and Fight against Domestic and Gender Violence 2014–2017, which integrates the III Program of Action for the Prevention and Elimination of Female Genital Mutilation;
- The 3rd National Plan to Prevent and Combat Trafficking in Human Beings 2014–2017.

Implementation of adequate safeguards to ensure that overly medical procedures, such as caesarean operations, for childbirth are thoroughly assessed and carried out only when it is necessary and with the informed consent of a patient

14. In order to reduce the caesarean rate in Portugal, without jeopardizing the good health outcomes achieved in recent years, the Portuguese government has created a National Commission for the Reduction of Caesarean Section Rate (CNRTC) in 2013.

15. Within the scope of its functions, the Commission has drawn up a standard and five clinical guidelines on technical aspects related to caesarean sections for health professionals.

16. Information and awareness-raising texts were also produced for health professionals and the general public.

17. The publication and dissemination of these texts contributed allowed for greater homogeneity in clinical practice in this area of maternal health care, constituting an important support for health professionals for a clinical orientation, and less directed to the caesarean section.

18. It is important that all health professionals with skills in maternal care give objective and consistent information to pregnant women about the increased risks

associated with caesarean delivery. In these matters, free and informed consent is enshrined in the different legislative orders.

Amendment of the Law on Voluntary Termination of Pregnancy and annulment of the excessively burdensome conditions recently introduced, including the requirement of fees in order to provide women with freedom of informed choice and respect for autonomy

19. In 2015, a citizen's legislative initiative was brought to parliament for discussion, to introduce several changes to abortion on request — to impose cost sharing and mandatory psychological counselling on women seeking abortion. Consequently, in September 2015 two Laws were approved in the Parliament, namely:

20. Law 134/2015 which sets for the payment of moderating fees for abortion when it is performed at the request of the woman, during the first 10 weeks of pregnancy (on women's request only, not for other grounds for abortion).

21. Law 136/2015, which introduced the first amendment to Law No. 16/2007, of April 17, on exclusion of illegality in cases of voluntary pregnancy interruption, containing several restrains for abortion on women request, including the obligation to undergo psychological and social support during the reflection period.

22. In February 2016, through Law 3/2016, both Laws were repealed.

Organization of its health services so that the exercise of conscientious objection in such cases does not impede their effective access to reproductive health care services, including abortion

23. The NHS is responsible for ensuring that all women seeking an abortion may have the procedure performed in due time. The responsibility lies with the hospital to ensure access. This fact has important consequences on the organization of services.

24. In 2001, the Referral Network Maternal and Child (RRMI) was approved by Ministerial Order. This network of mother and child health established the interconnection of primary care professionals and hospitals, organizing themselves in Functional Coordinating Units (FCU). When, in 2007, it was necessary to introduce a network capable of responding to Law 16/2007, this national network of reproductive health services was already organized, which constituted a significant added value.

25. This aspect has been important in order to ensure the ability to respond in different situations such as when there are limited human resources available and when the units in which the number of conscientious objectors makes it impossible to carry the procedure.

26. Regarding conscientious objection, professionals involved in the direct provision of abortion may object but must submit a written declaration to their hospital director. This declaration must confirm that the objector will have to assist all pregnant women facing a health at risk, that he/she will refer the patient to a willing clinician and that he/she will not participate in the counselling.

27. Law 16/2007 on the exclusion of illegality in cases of voluntary pregnancy interruption was regulated by ordinance number 741-A/2007 of June 21st that states:

«Article 11 – Meeting deadlines - Under any circumstances, the board of directors of the official health establishment, the official responsible for the primary health care establishment or the head of the officially recognized health establishment, as it is the case, shall take all necessary steps to comply with the deadlines established by law for the interruption of pregnancy»

«Article 12 – Conscientious objection

(...)

3. Health professionals who are conscientious objectors should ensure that pregnant women requesting the termination of pregnancy are sent to the competent services within the legal deadlines.

4. In the official health care facilities where the existence of conscientious objectors makes it impossible to carry out the termination of pregnancy in accordance with the legal terms and conditions, it shall be ensured that it is carried out by adopting, under the coordination of the territorially competent regional health administration, appropriate forms of collaboration with others officially recognized health care facilities and considering the resulting costs.»